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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

THE PEOPLE,

Plaintiff and Respondent,

v.

DAVID XAVIER BUSHMAN,

Defendant and Appellant.

B167684

(Los Angeles County
Super. Ct. No. KA059047)

APPEAL from a judgment of the Superior Court of Los Angeles County,
Robert M. Martinez, Judge. Dismissed.

Tom Stanley for Defendant and Appellant.

Bill Lockyer, Attorney General, Robert R. Anderson, Chief Assistant Attorney
General, Pamela C. Hamanaka, Senior Assistant Attorney General, Susan D. Martynec,
Supervising Deputy Attorney General, Lawrence M. Daniels, Deputy Attorney General,
for Plaintiff and Respondent.

Defendant, David Xavier Bushman, purports to appeal after he entered a no contest plea to a felony charge. In his opening brief, defendant contends that his conviction must be reversed because the trial court failed to fully inquire into a potential conflict of interest or grant a continuance to permit investigation of his competency to stand trial. The Attorney General has moved to dismiss the appeal because defendant failed to secure a probable cause certificate as required by Penal Code section 1237.5 and rule 31(d) of the California Rules of Court. (*In re Chavez* (2003) 30 Cal.4th 643, 651; *People v. Mendez* (1999) 19 Cal.4th 1084, 1099.) We allowed briefing on the issue and the parties to orally argue the dismissal question. We agree with the Attorney General. Defendant's failure to secure a probable cause certificate prevents him from challenging the validity of his conviction based upon his no contest plea. (*People v. Kaanehe* (1977) 19 Cal.3d 1, 8; *People v. Ribero* (1971) 4 Cal.3d 55, 61, superseded by statute on other grounds as stated in *In re Chavez, supra*, 30 Cal.4th at pp. 655-656; *People v. West* (1970) 3 Cal.3d 595, 600-601; *People v. Ward* (1967) 66 Cal.2d 571, 574-576.)

The appeal is dismissed.

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TURNER, P.J.

We concur:

GRIGNON, J.

ARMSTRONG, J.